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Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan and on the achievements of technical assistance in the field of human rights in 2014

Summary

The human rights situation in Afghanistan in 2014 has been negatively affected by the contested security, political and economic transitions. Anti-Government elements sought to exploit the uncertainty by increasing their offensives, resulting in more ground engagements and a rising toll in civilian casualties. In the first 11 months of 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. 2014 has become the year with the highest number of civilian deaths and injuries recorded by the United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) since 2009.

Unaddressed pervasive violence against women and girls and impunity for abusive detention practices, including torture, continued.

Despite the worsening conflict and continuing human rights violations, with the formation in September 2014 of the National Unity Government committed to a reform agenda, there is a genuine opportunity to consolidate and expand human rights protections. For reforms to take root, they must be reinforced by accountability for those who commit human rights violations.

UNAMA/OHCHR have continued to pursue an overall strategy of "embedding human rights in Afghanistan" in support of all Afghans. Through targeted research and documentation, reporting, advocacy and engagement in strategic partnerships and dialogue with government, national institutions and civil society actors and communities as well as international partners across Afghanistan.

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UNAMA/OHCHR have prioritized four areas: protection of civilians in armed conflict, including children; elimination of violence against women; prevention of torture and arbitrary detention; and human rights aspects of peace and reconciliation processes. In addition, UNAMA/OHCHR is providing support and advocacy to strengthen the effectiveness and independence of the Afghanistan Independent Human Rights Commission. These priorities reflect the UNAMA mandate and highlight the main human rights concerns of the Afghan people. These priorities also serve as key areas for the newly elected Afghan Government to focus upon, as part of their reform agenda following the transfer of security and other responsibilities from international actors.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council decision 2/113 of 27 November 2006 and its resolution 14/15 of 18 June 2010, and has been prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA). Since the previous report (A/HRC/25/41), the human rights situation in Afghanistan has been negatively affected by the contested security, political and economic transitions that concluded in 2014.

2. Presidential elections took place on 5 April, in which no candidate won more than 50 per cent of the vote, and a second-round run-off was held on 14 June between the two leading candidates. The determination displayed by millions of Afghans to cast their ballots and the performance of the Afghan security forces in the face of insurgency threats were welcomed within the country and internationally. Although civilian casualties on the election days were high (532 in total), the insurgency did not cause significant disruption to the process.

3. In the weeks after the vote, political tensions over allegations of fraud led to a serious political impasse, with grave destabilizing consequences for the political, security, economic and social environment. The situation was resolved following mediations by the United Nations and the international community, and agreement by the two contenders to an internationally observed audit. This resulted in the inauguration of Asraf Ghani as President and in the formation of a government of national unity committed to a reform agenda, with Abdullah Abdullah as Chief Executive Officer. These political developments give reasons for cautious optimism amid the persistent insecurity.

4. Of grave concern is the significant increase in the number of civilian casualties from the already elevated numbers of 2013. From January to November 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. This is the highest number of civilian casualties recorded by UNAMA/OHCHR since 2009. While three-quarters of all civilian deaths and injuries were caused by anti-Government elements, a rise in civilian casualties caused by Afghan Government forces was also documented. For the first time, ground engagements became the leading cause of civilian casualties, with civilians increasingly killed or injured in the crossfire. This increase in civilian casualties disproportionately affected children: child casualties were 33 per cent higher than those recorded in 2013. From January to November 2014, at least 44 children were killed or injured every week in Afghanistan.

5. Phase II of the Afghan People's Dialogue on Peace, which was launched in April 2013, was completed in 2014. The project promotes an inclusive, rights-based approach to peace and reconciliation efforts by enabling Afghans to express their views on prospects for peace, reconciliation, security, economic development, human rights, justice and the rule of law. UNAMA/OHCHR has supported civil society to lead in delivering this project. Phase II led to the development of 34 provincial road maps, which are being used as an advocacy tool by civil society. The People's Dialogue steering committee has requested to present the findings and recommendations of the report to President Ghani.

6. The prevalence of violence against women and girls and a lack of accountability in that regard continued to be of serious concern. The Government released its latest report on the implementation of the Law on the Elimination of Violence against Women, indicating a 20 per cent increase in the recorded incidents of violence against women (5,406 incidents), of which 3,715 constituted acts that could be prosecuted under the Law. In the report, the Government noted that mediation of cases of violence against women — including for serious crimes — was prevalent. Over the course of 2014, the Ministry of Interior has made

significant progress in developing policies and directives aimed at enhancing protection of policewomen in the workplace. Afghan women's participation in the 2014 Presidential and Provincial Council elections was strong. However, women's political representation decreased owing to the 2013 amendments to the Electoral Law, which reduced the number of seats reserved for female representatives in the Provincial Council.

II. Protection of civilians

7. Conflict-related violence increasingly affected civilians in 2014, with an increase in the number of civilian casualties from the already elevated numbers of 2013. Attacks by anti-Government elements (Taliban and other armed opposition groups) against Afghan National Security Forces increased as insurgents sought to exploit uncertainty surrounding the presidential election and assert control as transition of security responsibilities from international military forces to Afghan forces concluded. Increasing pressure from anti-Government elements and a high number of casualties experienced by Afghan National Security Forces caused Afghan forces to concentrate on force protection and recovering disputed territory, which limited their primary role in protecting civilians from conflict-related violence.

8. From January to November 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. 2014 thus became the year with the highest number of civilian deaths and injuries recorded by UNAMA/OHCHR since 2009. Between 1 January and 30 November 2014, UNAMA/OHCHR documented 9,617 civilian casualties (3,188 civilians killed and 6,429 injured). UNAMA attributed 75 per cent of civilian casualties to anti-Government elements, 11 per cent to pro-Government forces, consisting of Afghan National Security Forces and international military forces, and 9 per cent to ground engagements between pro-Government forces and anti-Government elements in which attribution was not possible. Four per cent of civilian casualties were unattributed, resulting mainly from explosive remnants of war, while the remaining one per cent resulted from by cross-border shelling.

9. A new trend in 2014 was an increase in civilian casualties from ground engagements between Afghan National Security Forces and anti-Government elements, particularly in civilian populated areas. These caused the most civilian casualties. In previous years, improvised explosive devices used by anti-Government elements consistently caused the highest number of civilian casualties. The increased focus by the conflicting parties on asserting control on the ground gave rise to larger numbers of armed clashes between anti-Government elements and pro-Government forces, particularly in the eastern, south-eastern and southern regions.

A. Anti-Government Elements

10. Seventy-five per cent of all civilian casualties during 2014 were attributed to anti-Government elements (which includes a range of armed opposition groups) — the same number recorded in the same period in 2013. The Taliban also claimed responsibility for an increased number of incidents which caused a total of 1,700 civilian casualties, 88 per cent higher than in the same period in 2013, although, as in previous years, for the majority of incidents that UNAMA/OHCHR attributed to anti-Government elements, there has been no claim of responsibility.

11. Between 1 January and 30 November 2014, improvised explosive devices and suicide/complex attacks by anti-Government elements together accounted for 46 per cent of all civilian deaths and injuries. Improvised explosive devices alone accounted for 800

civilian deaths and 2011 injured (2,811 civilian casualties), up five per cent from the same period the previous year. After a decrease of 44 per cent in civilian casualties from pressure-plated devices in 2013, the number of civilian casualties from those devices increased again in 2014 by nine per cent. In a particularly grave incident on 23 November 2014, in Yahyakhel district of Paktika province, a suicide attacker detonated a body-borne improvised explosive device among a large crowd at a local volleyball tournament. The suicide bomber was allegedly targeting members of the Afghan Local Police among the crowd. Fifty-eight civilians were killed, including 21 children, and 85 were injured, including 26 children. The anti-Government element group responsible for this attack has not been determined.

12. Throughout 2014, anti-Government elements continued to target and kill civilians who worked for or were perceived to support the Government or Afghan and international military forces. Between 1 January and 30 November, UNAMA/OHCHR documented 967 civilian casualties (649 civilian deaths and 318 injured) from targeted killings — a decrease of 11 per cent as compared with the same period in 2013. In many cases, which led to 63 per cent of the casualties, the Taliban claimed responsibility for the targeted killings on their website. On 30 August 2014, for example, the Taliban claimed responsibility for having killed 12 labourers and injured five in Farah Province, alleging that they were members of a pro-Government militia.

13. Anti-Government elements attempted to disrupt both rounds of the 2014 presidential election by threatening and targeting civilians involved in the electoral process. On the weekend of the first round of the election (held on 4 and 5 April), 211 conflict-related incidents caused 208 civilian casualties (45 killed and 163 injured). Most of the incidents (91 per cent) directly targeted voters, candidates, employees of the Independent Elections Commission or police officers providing security to polling centres. On the weekend of the second round of the elections (on 13 and 14 June), violence increased, with 169 conflict-related incidents affecting civilians, causing 324 civilian casualties (82 deaths and 242 injured). Again, most of the incidents (85 per cent) directly targeted participants in the election. In a serious incident on 14 June in Herat, the Taliban cut off the fingers of 12 men after they had cast their vote. The attacks by anti-Government elements did not result in significant disruption to the electoral process.

14. Anti-Government elements increasingly threatened and targeted religious leaders. UNAMA/OHCHR documented 24 incidents in which religious leaders or places of worship were directly threatened or attacked, resulting in 58 civilian casualties (18 deaths and 40 injured). The total number of casualties caused by attacks against religious leaders and places of worship grew by 57 per cent over the same period in 2013. The majority of the attacks targeted mullahs performing funeral ceremonies for deceased members of Afghan security forces and religious figures who had expressed public support for the Government. In the first 11 months of 2014, the number of incidents of punishments, including executions, amputations and beatings by "parallel courts" operated by anti-Government elements also doubled and the number of resulting civilian casualties quadrupled to a total of 92, with 77 civilians killed and 15 injured.

B. Pro-Government forces

15. From 1 January to 30 November 2014, UNAMA/OHCHR documented 1,085 civilian casualties (446 civilian deaths and 639 injured) attributed to pro-Government forces, a 21 per cent increase from 2013. The rise is attributed to an increase in offensive operations and counter-attacks by Afghan National Security Forces against anti-Government elements in contested areas. For example, on 18 August, 14 civilians,

including four women and four children, were killed, and 14 others injured in an Afghan National Army operation in Kunduz city.

16. With the conclusion of the security transition in 2014, UNAMA/OHCHR highlights the lack of a permanent structure in relevant bodies of the Afghan National Security Forces to systematically investigate allegations of civilian casualties, initiate remedial measures and take follow-up action. The Civilian Casualties Tracking Team in the Presidential Information Coordination Centre, which was established in May 2012, does not receive complaints from individuals or organizations, and only records reports of civilian casualties received from security bodies. UNAMA/OHCHR has not observed any improvement in the accountability of Afghan National Security Forces as incidents in which they have caused civilian casualties have not been investigated or led to prosecutions. The new Government has pledged to make the mitigation of civilian casualties a priority, with operational procedures related to night raids and the use of mortar fire in civilian populated areas under revision.

17. Human rights violations attributed to the local police were documented by UNAMA/OHCHR in several regions. From 1 January to 30 November 2014, UNAMA/OHCHR documented 89 civilian casualties caused by the local police (44 deaths and 45 injured), a 20 per cent decrease compared with 2013. However, the number of civilian deaths attributed to the local police increased by 42 per cent. In most cases, the deaths and injuries resulted from members of the local police committing human rights violations, including punishments and revenge killings. The current mechanism for accountability — the monitoring and investigations section of the Directorate of the Ministry of Interior for the local police — has shown limited results in 2014. There have been only a small number of prosecutions and convictions for human rights violations committed by the local police, and the Directorate is not mandated to monitor and follow-up on prosecutorial steps, which limits its effectiveness in promoting accountability within the local police.

18. Explosive remnants of war continued to pose a serious hazard to civilians, particularly children. Civilian casualties from remnants increased by 10 per cent, which was attributed to the growing number of ground engagements. Following sustained advocacy by UNAMA/OHCHR, the International Security Assistance Force (ISAF) and the international community continued to take significant steps to ensure that firing ranges no longer in use were cleared of unexploded ordnance. ISAF conducted surface clearance of more than 20 ranges and pledged to complete the surface clearance of all firing ranges early in 2015 (ahead of December 2015, as initially proposed). In October 2014, the Congress of the United States of America approved $250 million to carry out subsurface clearance where required on high-explosive firing ranges. With the sharp rise in ground engagements in 2014 and the associated risk of unexploded ordnance, it is imperative that Afghan National Security Forces be fully supported to mark hazardous areas, ensure clearance of unexploded ordnance from the battlefield and continue awareness-raising programmes to educate children on the dangers of unexploded ordnance. UNAMA/OHCHR condemned the killing by anti-Government elements of 11 Afghan deminers and the wounding of another 6 in an attack in Helmand province on 13 December.

19. Civilian casualties from aerial operations followed the downward trend observed by UNAMA/OHCHR in 2013; the total civilian casualties caused by aerial operations decreased by 21 per cent from January to November 2014, with 92 killed and 54 injured. Civilian deaths and injuries from remotely piloted aircraft (drones) decreased by 10 per cent, killing 31 civilians and injuring 22. On 26 August, a drone strike in Kunduz province killed two civilians and injured six, including two children. More than 10 civilian houses were also damaged. UNAMA/OHCHR has urged international military forces to review

thoroughly pre-engagement targeting criteria and take the required precautionary measures to prevent civilian casualties.

C. Children and armed conflict

20. During the reporting period, the changing nature of the conflict had a disproportionate impact on children. Child casualties reported and verified between 1 January 2014 and 30 November 2014 were 33 per cent higher than those recorded during the same period in 2013. Between 1 January and 30 November 2014, the United Nations-led country task force on monitoring and reporting verified 925 incidents of killing and maiming out of a total of 995 reported incidents. The verified incidents indicate that at least 597 children (442 boys, 131 girls and 24 gender unknown) were killed and a further 1,501 children (1,075 boys, 374 girls and 52 genders unknown) were injured. Between January and November 2014, at least 44 children were killed or injured every week in Afghanistan.

21. Ground engagements caused the highest number of child casualties — 1,014 killed or injured. Improvised explosive devices were the second leading cause of child deaths and injuries, amounting to 568 casualties — all attributed to anti-Government elements. Explosives remnants of war caused 264 child casualties — including 226 boys — during the period under review. Suicide attacks by anti-Government elements resulted in 198 child casualties, with the highest numbers recorded in the southeast region. Air strikes by international forces killed and injured 31 children during the period under review. Anti-Government elements were responsible for 56 per cent of the total child casualties reported and verified, and international and Afghan security forces were responsible for 15 per cent. The remaining 27 per cent of the casualties remained unattributed.

22. From January to November 2014, the task force documented 203 reports of attacks against schools and related personnel or school occupation. The 155 verified incidents represent a sharp increase compared with the same period in 2013, when 73 such incidents were reported. Attacks against schools included both deliberate targeting as well as incidents that impeded access to education, including crossfire, improvised explosive device placement or detonations on the premises of schools, abduction of staff, intimidation and harassment of education personnel. At least 79 of the verified incidents in 2014 resulted from the direct targeting of schools used as polling centres during the presidential elections.

23. During the period under review, 45 incidents of underage recruitment, involving 53 boys and 2 girls, were reported to the task force, of which it was only possible to verify 14 incidents. The children were recruited allegedly to carry out different types of military activities, such as planting improvised explosive devices, transporting explosives, carrying out suicide attack, spying and for sexual purposes. At least eight recruited boys lost their lives and six boys were injured while planting or assembling improvised explosive devices or carrying out suicide attacks. Of the verified incidents, anti-Government element groups were responsible for the recruitment of 15 boys, while 1 boy was recruited by the Afghan local police and one by a pro-Government militia in the northeast region. A decrease was noted in the number of child recruitment compared to 2013, when the recruitment and use of 79 children was reported.

24. Members of armed groups and armed forces in Afghanistan continued to abduct children. During the period under review, 20 incidents of abduction were reported, involving 35 children (34 boys and a girl), of which the task force was able to verify 14 incidents affecting 21 boys and a girl. Anti-Government elements, mostly the Taliban, were responsible for 12 verified incidents. The abduction of a boy and a girl was attributed to pro-Government forces.

25. Anti-Government elements, including the Taliban, also continued to deny humanitarian access to children in the areas under their control. UNAMA/OHCHR was able to verify 66 such incidents out of 74 reported. Verified incidents included abduction, intimidation, killing and injury of humanitarian staff, mostly of deminers, denying access to vaccinators and causing damage to facilities run by humanitarian organizations.

26. Despite progress made by the Government, information gathered by the task force highlights that many challenges remain in the full implementation of the Government's action plan for the prevention of underage recruitment, including limited age-determination procedures and reports of under-18s recruited, both by the Afghan National Police and the local police. As such, in the most recent report of the Secretary-General on children and armed conflict (A/68/878–S/2014/339) the national police and the local police remained listed for underage recruitment.

27. The Government, with support from UNAMA/OHCHR and the United Nations Children's Fund, developed a road map towards compliance of the action plan for the prevention of underage recruitment. This was endorsed by the Interministerial Steering Committee on Children and Armed Conflict and progress has been made in its implementation. As part of the road map, UNAMA/OHCHR provided technical support for drafting of a presidential decree to criminalize underage recruitment. It was adopted by the lower house on 1 November and was pending approval by the upper house of Parliament at the time of finalizing the present report. Age assessment practices are being strengthened through the development of national guidelines. Another milestone, which can contribute to reducing underage recruitment, was endorsement by the Minister of Interior of the national birth registration strategy.

III. Protection from arbitrary detention and respect for fair trial rights

28. Over the past year, Afghanistan's prison population decreased from 32,157 adult and juvenile detainees and prisoners in 2013 to 27,859 (as at 22 October 2014). These figures comprise 12,221 detainees and 15,638 prisoners housed in Central Prisons Directorate facilities and the juvenile corrections and rehabilitation centres across Afghanistan.

29. The prison population included 7,555 persons detained or imprisoned in connection with the armed conflict, but excluded persons held by the national police or the National Directorate of Security in pretrial custody. In the majority of cases, conflict-related detainees are held arbitrarily for extended time periods, in violation of legally prescribed time limits and due process guarantees under Afghan law, in particular the 2014 Criminal Procedure Code. Most of these detainees do not have access to defence counsel, have not been informed of the charges against them and have not been brought before a tribunal while in the custody of the national police and National Directorate of Security.

30. Treatment of conflict-related detainees while in the custody of the national police and National Directorate of Security remains a major human rights concern. In 2014, as in previous years, torture usually took the form of coercive interrogation techniques in which Afghan officials inflicted severe pain and suffering on detainees during interrogations aimed mainly at obtaining a confession or information. A newly identified trend is to outsource torture to small and remote detention facilities to which detention-monitoring organizations have no access owing to the prevailing insecurity in Afghanistan. UNAMA/OHCHR is due to issue its third major report on human rights concerns regarding the treatment of conflict related detainees in early 2015.

31. One key recommendation of the UNAMA/OHCHR 2013 detention report, still unimplemented almost two years on, is the creation of an independent national preventive

mechanism on torture in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — which Afghanistan has not yet ratified — which could be located within the Afghanistan Independent Human Rights Commission, with authority and enhanced capacity to inspect all detention facilities. UNAMA/OHCHR also encourages the Government to invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan so that he can provide advice on efforts to address the issue of torture and ill-treatment.

32. Throughout 2014, the monitoring activities of UNAMA/OHCHR mainly focused on the Government's implementation of Presidential Decree No. 129, which former President Karzai had issued on 16 February 2013 in response to a Government fact-finding delegation's report that had validated UNAMA findings in its January 2013 report. This decree ordered the National Directorate of Security, the Attorney General's Office, the Ministry of Interior, the Ministry of Justice and the Supreme Court to investigate allegations of torture, prosecute alleged perpetrators, release detainees and prisoners in arbitrary detention, increase access of defence lawyers and medical personnel to detainees to prevent torture and arbitrary detention, and ensure accountability, and report back to the President's Office every three months. UNAMA/OHCHR findings indicate that, despite the 2013 developments, torture and ill-treatment of conflict-related detainees persist in some detention facilities, with few allegations of torture investigated, prosecuted or subjected to disciplinary action. Measures taken by the Government, such as internal investigations and the establishment of a cadre of National Directorate of Security human rights officers are not robust enough to prevent and end torture. Presidential Decree No. 129 alone is not an effective deterrent to torture; greater accountability is needed to end impunity and bring perpetrators to justice.

33. The only prosecution, trial (in mid-April 2014) and subsequent imprisonment of perpetrators of torture known to UNAMA/OHCHR has been of two National Directorate of Security officers in the province of Uruzgan. In a few other cases, Directorate personnel who committed torture or ill-treatment were reassigned to other functions or simply had to pledge not to re-offend. No national police officials were found to have been investigated or prosecuted on allegations of torture or ill-treatment.

34. Defence lawyers have access to provincial National Directorate of Security detention facilities, but can usually access detainees only after the investigation phase has been concluded. The Legal Aid Department of the Ministry of Justice lacks capacity and cannot address the current shortfall of legal aid defence lawyers alone. Most medical personnel working in detention facilities lack independence as they report directly to the Directorate and the Ministry of Interior, and fear that they will face reprisals if they endorse findings of physical abuse or torture.

35. The Supreme Court has issued instructions to judges reminding them to reject confessions obtained through torture and to dismiss cases that rely solely on evidence thus obtained. However, these obligations are not respected in practice, and prosecutors or judges routinely disregard or dismiss allegations of forced confessions. These confessions constitute the primary basis for proving a case and justifying a conviction in court.

36. In response to the findings of the UNAMA/OHCHR report of 20 January 2013,[1] ISAF suspended transfers of detainees it had captured to 35 Afghan detention facilities and redesigned its detainee certification review process to include inspections, extended training and capacity-building of all national police and National Directorate of Security

[1] Available from www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBL0S5b37o%3D&tabid=12254&language=en-US.

interrogators and detention staff on human rights principles and non-coercive interrogation techniques, and mentoring. In 2014, UNAMA/OHCHR did not document incidents in which detainees arrested by international forces were tortured following their transfer to an Afghan facility. UNAMA/OHCHR did, however, record incidents in which detainees were arrested by Afghan security forces in operation that had international military support, and were subsequently tortured by Afghan detaining authorities. The North Atlantic Treaty Organization (NATO) Resolute Support Mission, due to start in 2015 as a successor mission to ISAF, does not include a detention monitoring component. In 2014, the Government of Afghanistan continued to invest attention and resources into the development of the State party report to the Committee Against Torture. Between September 2013 and November 2014, the Ministry of Foreign Affairs hosted one conference at the provincial level and three at the national level to engage government officials from 13 institutions, including security, judiciary and civil society, in the reporting process. In November 2014, the Ministry of Foreign Affairs also released a compilation of written works on torture in Afghanistan by celebrated academics. In October 2014, President Ghani visited the Kabul central prison and directed authorities to continually monitor and report on the situation of detainees.

37. Five men convicted of armed robbery and gang rape in Paghman were executed on 8 October. Prior to their executions, the United Nations High Commissioner for Human Rights wrote to President Ghani, requesting him to stay the carrying out of the death sentences, in order to allow time for a judicial review to ensure that the rights to fair trial of the accused individuals had been upheld. There was no question this had been an appalling crime. However, the High Commissioner expressed grave concerns that the legal process that had led to the convictions had failed to comply with national and international fair trial standards. UNAMA/OHCHR had received credible allegations that the convicted men had been ill-treated while in pretrial detention, denied adequate legal representation and, during the legal proceedings, the legal basis for the prosecution had been unclear. The High Commissioner urged the Government to establish a moratorium on executions and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. In mid-October, President Ghani announced that the Government would review all the cases where the convict had been sentenced to death by the courts.

IV. Violence against women and promotion of women's rights

38. The prevalence of violence against women and a corresponding lack of accountability continued to be of serious concern during 2014. Insecurity, cultural beliefs and victims' fears of retaliation or stigmatization led to continued underreporting of incidents of violence against women, a major obstacle to a comprehensive analysis of trends.

39. Building on the findings and recommendations of the December 2013 UNAMA/OHCHR report entitled "A Way to Go: An Update on Implementation of the Law on the Elimination of Violence against Women in Afghanistan",[2] UNAMA/OHCHR continued to monitor, report and advocate on issues related to violence against Afghan women and girls. From January to November 2014, field teams documented 302 alleged cases of violence against women across the country, including 91 murders, 29 cases of forced immolation, 27 rapes, 135 cases of battery and laceration, and 52 forced and 21

[2] Available from http://unama.unmissions.org/Portals/UNAMA/Documents/UNAMA%20REPORT%20on%20EVAW%20LAW_8%20December%202013.pdf.

underage marriages. UNAMA/OHCHR urged the authorities to comply with the country's international and national obligations and provided technical support to members of the provincial commissions on the elimination of violence against women. Overall, the functioning of such commissions varies widely across the country. In many provinces, the mechanism faces challenges such as absenteeism, lack of technical expertise and the reluctance of the relevant authorities to convene them. Some progress was observed, with the prosecution units on the elimination of violence against women under the Attorney General's Office increasing their field presence from 8 to 18 provinces in 2014.

40. On 1 March 2014, the Government released its first report on implementation of the 2009 Law on the Elimination of Violence against Women, based on data it had gathered from 32 of the country's 34 provinces between March 2012 and March 2013. A second report was released on 24 November 2014, covering the period March 2013 to March 2014, based on data from all 34 provinces. With the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), UNAMA/OHCHR provided significant support to the Government in preparation of the reports. The first report recorded 4,505 incidents of violence against women, of which 3,396 constituted acts that could be prosecuted under the Law on the Elimination of Violence against Women. The second report indicated a 20 per cent increase in recorded incidents of violence against women (5,406 incidents) of which 3,715 constituted acts that could be prosecuted under the law. Both reports noted that mediation of cases of violence against women, including for serious crimes, was prevalent. The second report also found that very few cases involving violence against women were resolved through a criminal justice process that resulted in sanctions against perpetrators or acquittals. The reports proposed a range of remedial actions, including establishing a comprehensive database, strengthening national and provincial commissions on the elimination of violence against women, and increasing awareness of the related Law, which are consistent with UNAMA/OHCHR recommendations.

41. The Government initiated discussions on the use of mediation of cases of violence against women by State institutions. With the technical support of UNAMA/OHCHR, the Ministry of Women's Affairs and the Ministry of Finance held a national conference on 16 September 2014, which resulted in the establishment of a drafting committee charged with drawing up detailed instructions outlining the methodology and criteria, including what specific acts can be mediated, as well as minimum requirements and follow-up mechanisms to regulate mediation. As mediation continues to be widespread, the development of standardized guidelines is imperative to ensure that mediation processes and outcomes are used only for specific offences and not for serious crimes and are fair, safe, voluntary, confidential, free from any form of intimidation or discrimination and in full respect of the rights and dignity of victims.

42. Over the course of 2014, the Ministry of Interior made significant progress in developing policies and directives aimed at enhancing protection of policewomen in the workplace. Serious concerns had been raised in 2013 about high levels of sexual violence and harassment, and the undermining of female police officers' authority by male officers in the national police. In January 2014, the Minister of Interior endorsed a strategy for the integration of women in the police force intended to create a protective environment for women employed in the national police. The strategy incorporated a comprehensive definition of sexual harassment and reinforced its prohibition. Moreover, on 10 March 2014, an interministerial commission was established and tasked with drafting an action plan to implement the strategy, to which UNAMA/OHCHR provided technical support. Adopted by the Minister of Interior on 13 August 2014, the final plan outlines measures to improve the participation, protection and professionalization of women in the national police. As a result of advocacy to strengthen accountability, the plan includes the establishment of an independent and effective complaints and monitoring unit to investigate misconduct and abuse. The swift implementation of the action plan across the country is

critical. The overall presence of policewomen in the national police remains very low: as at October 2014, women comprised approximately 1.5 per cent of the national police — 2,334 of a total force of over 153,000. President Ghani has declared addressing sexual harassment in Afghanistan as one of his priorities and, upon his request, UNAMA/OHCHR submitted a briefing note on this issue, proposing recommendations based on international standards and best practices.

43. In terms of legislative developments, the 2009 Law on the Elimination of Violence against Women remained enacted by presidential decree and was not brought back before Parliament for ratification for fear it would be rejected. As at December 2014, discussions were ongoing within the Ministry of Justice-led Criminal Law Reform Working Group (Penal Code reform subcommittee) to propose the incorporation of criminal provisions of the Law into the revised Penal Code, which would help consolidate the previous gains made under the Law.

44. Encouraging developments were observed regarding the participation of women in the 2014 Presidential and Provincial Council elections as voters, candidates, election staff and observers. During the two rounds of voting held in April and June, their participation as voters constituted 36 per cent and 38 per cent, respectively, in the face of intimidation, logistical constraints and deep-rooted conservative social norms discouraging women's role in public life. The number of women running for elections was unprecedented, representing 9 per cent of the overall candidates in the presidential race, and 11 per cent for provincial council elections. However, at final count, due to the 2013 amendments to the Electoral Law that reduced the number of seats reserved for female representatives in the Provincial Councils from 25 to 20 per cent, women won 97 seats out of 458 seats (21 per cent), which constituted a sharp decrease compared with the 132 seats out of 458 (29 per cent) they had won in the 2009 elections. With fewer women represented, concerns arise over their ability to effectively promote gender equality within the national political agenda.

45. To underscore the Government's commitment to the participation of women in political, peace and security processes, the national action plan on the implementation of Security Council Resolution 1325 (2000) was endorsed by a steering committee in October 2014. The Government of Afghanistan, in cooperation with civil society, submitted to the United Nations its second report on the implementation of the Beijing Declaration and Platform for Action in May 2014.[3] To mark the annual 16-day campaign of activism to end gender violence, held globally from 25 November to 10 December, UNAMA/OHCHR, in collaboration with other partners, supported outreach activities across the country, such as debates, radio programmes and workshops, to raise awareness on the imperative to act against violence perpetrated against women and girls.

V. Peace and reconciliation, including accountability and transitional justice

46. In 2014, UNAMA/OHCHR continued to support the Afghan People's Dialogue on Peace initiative. The project promotes a rights-based approach to peace and reconciliation efforts by enabling Afghans to express their views on prospects for peace, reconciliation, security, economic development, human rights, justice and the rule of law. The project has been implemented in two phases: phase I, from October to December 2011; and phase II, from April 2013 to December 2014. In line with the principle of Afghan leadership and

[3] Available from www.unwomen.org/~/media/headquarters/attachments/sections/csw/59/national_reviews/afghanistan_review_beijing20.ashx.

ownership of peacebuilding initiatives, UNAMA/OHCHR has played a facilitation role, supporting civil society to lead this inclusive, rights-centred process that enables the voices of Afghans to be heard and considered by the new Government and policymakers. As an integral part of the initiative, 34 provincial road maps have been completed and are being used an advocacy tool by local civil society groups.

47. On 10 June, UNAMA assisted Afghan civil society by coorganizing a press conference to launch the summary report of phase II of the Afghan People's Dialogue on Peace, entitled "Building the Foundations for an Inclusive Peace Process".[4] The 40-page report summarises the views of the 4,648 Afghan men, women and young people from all 34 provinces of the country who participated in phase II of the Dialogue. In the report, it is stated that disarming and disempowering local militias, tackling widespread corruption and impunity among the police and judiciary, resolving ethnic tensions, tribal disputes and factional conflicts that fuel broader armed conflict, respecting human rights and providing equitable development assistance and service delivery across the country were essential to achieving lasting peace. The report also contains a 10-point national road map for peace on the basis of these findings. On 12 October, the People's Dialogue steering committee sent an open letter to the Office of the President, requesting a discussion of the national road map for peace.

VI. Support to national institutions

Afghanistan Independent Human Rights Commission

48. On 28 January 2014, the findings of the five-yearly accreditation review of the Afghanistan Independent Human Rights Commission by the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights were published, with a decision on its status deferred for one year. The decision was accompanied by a statement of concern regarding the selection and appointment process for Commissioners, the dependence of the Commission on international donor funding, and the disparity in the ratio of female to male staff members.

49. Since then, the Commission has made efforts to address the concerns raised. These include obtaining a presidential order to amend the selection and appointment process, in order to establish a transparent, participatory and pluralistic process more in line with the principles relating to the status of national institutions (Paris Principles); implementing a comprehensive gender policy to improve female representation of the staff; and obtaining the Government's commitment to increase its 2014 budget allocation to the Commission. The Commission was reviewed for re-accreditation by the Subcommittee on Accreditation from 27 to 31 October 2014. The outcome was pending at the time of writing. UNAMA/OHCHR urges the new Government to ensure the Commission's continued independence, credibility and effectiveness. UNAMA/OHCHR also reiterates its recommendation to publicly release the Commission's conflict-mapping report as a way of promoting peace and reconciliation.

50. The Commission, supported by the United Nations Development Programme and in consultation with UNAMA/OHCHR, developed a new five-year strategic action plan for

[4] Available from http://unama.unmissions.org/Portals/UNAMA/human%20rights/Eng_%20Report%20-%20Afghan%20Peoples%20Dialogues.pdf.

the period 2014-2019, which was published on 10 December 2014. The plan defines five strategic objectives: to encourage and empower government, individuals and civil society institutions to promote, protect and respect human rights; to lead the Afghan human rights movement and advocate for change; to monitor the Government's compliance with national and international human rights obligations; to defend and protect the rights of victims of human rights abuse; and to ensure the Commission's effectiveness and impact of its interventions. UNAMA/OHCHR remains committed to strengthening this critical national institution and supporting implementation of its strategic action plan.

51. On 20 August, the Commission released the report of its national inquiry into the causes and consequences of *Bacha Bazi* ("playing with boys"), a practice that involves the sexual exploitation and often the sexual enslavement of boys by men in positions of power in Afghanistan. The Commission interviewed perpetrators, victims, local elites and witnesses in 14 provinces across the country and called on the Government to put an end to this abuse by amending the law to specifically criminalize the practice, to address the culture of impunity and to identify and protect victims. The report blamed the practice on factors such as weak rule of law, corruption, poverty and the presence of illegal armed groups in the country. The Commission is currently drawing up a follow-up advocacy strategy and action plan that UNAMA/OHCHR will support.

VII. Cooperation with United Nations human rights mechanisms

52. The Working Group on the Universal Periodic Review held its eighteenth session from 27 January to 7 February 2014. The review of Afghanistan was held at the 2nd meeting, on 27 January 2014. At its 10th meeting, held on 31 January 2014, the Working Group adopted the report on Afghanistan. In its opening statement, the delegation of Afghanistan acknowledged the challenges that had slowed its progress in human rights, such as terrorism, extremism, narcotics and insecurity in some parts of the country. The delegation noted that women's rights and gender equality remained a top priority for the Government, highlighting the enactment of the Law on the Elimination of Violence against Women, the establishment of special prosecution offices for the elimination of violence against women, and the establishment of 16 protection centres/shelters for female victims of domestic violence; it also highlighted the Government's success in increasing access to education and improving health-care provision, and stressed that Afghanistan had become party to most of the core international human rights instruments.

53. In response, the issues raised by the Working Group related, inter alia, to the failure to respond effectively to increasing violence against women; the prevalence of arbitrary arrests and detention by the police, cases of torture and other ill-treatment in detention facilities; the human rights situation of internally displaced persons; the high percentage of employed children; and the considerable outstanding challenges with regard to the fragile security situation. There were 224 recommendations made by 89 States covering a wide range of human rights issues, of which the Government accepted 189, rejected 12 and noted 23 for further consideration. UNAMA/OHCHR will work with partners to assist the Government in its implementation of the accepted recommendations.

54. From 4 to 12 November, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted a mission to Afghanistan, during which she met with senior Government officials, the Chairperson of the Afghanistan Independent Human Rights Commission, representatives of civil society and the diplomatic community in Kabul, Herat and Jalalabad. In her public statement at the end of her visit, she noted that positive legislative and institutional developments had taken place since the visit of her predecessor in 2005. However, she urged state institutions to address — among others — the absence of comprehensive and coherent data collection on violence against

women and the lack of effective interpretation and implementation of laws protecting women and girls from violence, and to allocate adequate resources and support to shelters. The Special Rapporteur will present her final report to the Human Rights Council in June 2015.

VIII. Conclusion

55. **The human rights situation in Afghanistan has been negatively affected by the contested security, political and economic transitions. Anti-Government elements sought to exploit the uncertainty by increasing their offensives, resulting in more ground engagements and a rising toll in civilian casualties. The uncertainty also affected the economy, threatening sustainable development. At the London Conference on Afghanistan, held on 3 and 4 December 2014, the international community reaffirmed its commitment to the country's future, in line with priorities and previous funding pledges agreed upon at the Tokyo Conference on Afghanistan, held in July 2012, and delivered a strong message of political support to President Ghani's administration and his planned reforms. The formation of the Government of National Unity provides an opportunity to consolidate and expand human rights protections. For this to happen, there must be accountability for those who commit human rights violations.**

56. **The strong public statements by the new Government that emphasize the importance of human rights, especially women's rights, as part of an ambitious social reform agenda, are particularly welcome. UNAMA/OHCHR fully supports the Government's initiatives on combatting sexual harassment, women's empowerment, addressing concerns over internally displaced people, and focus on the rights of detainees. Also, for the first time in many years, there appears to be a possibility for substantive peace and reconciliation processes and transitional justice. Human rights must not be sacrificed and women must play a full and active role in any negotiations; both are critical if peace is to be sustainable. OHCHR and the wider United Nations system stand ready to play an active and steadfast role in supporting the country to embed human rights for all Afghans at this important time.**

IX. Recommendations

57. **The United Nations High Commissioner for Human Rights recommends the following:**

The Government of Afghanistan should:

(a) Take concrete measures to reduce civilian casualties from ground engagements by revising and strengthening tactical directives, rules of engagement and other procedures, ensuring the proper training and resourcing of all Afghan National Security Forces on civilian protection measures, mitigation and accountability, and ceasing to fire mortars, rockets and grenades into civilian-populated areas;

(b) Strengthen structures in the Government that track, mitigate and provide accountability for civilian casualties by pro-Government forces; investigate all allegations of violations of international humanitarian and human rights law and human rights abuses by Afghan National Security Forces and Pro-Government militias and allied forces; and prosecute and punish those found responsible as required under Afghan and international law;

(c) Continue to dedicate all necessary resources to enable the full implementation of the national strategy to counter improvised explosive devices; prioritize the further development of the capacity of Afghan National Security Forces to command, control and effectively conduct operations to counter and dispose of improvised explosive devices, including exploitation;

(d) Continue to disband and disarm all illegal militia and armed groups;

(e) Develop and implement detailed guidelines for police and prosecutors that outline the methodology, criteria, minimum requirements and follow-up mechanisms regulating mediation of registered incidents of violence against women;

(f) Put in place, within six months, a concrete plan covering the next two-year period to improve the status of the elimination of violence against women, including the measures recommended by the Committee on the Elimination of Discrimination against Women in July 2013;

(g) Build the capacity of government institutions that work on the implementation of the Law on the Elimination of Violence against Women, with training on the Law as be a mandatory element of the training curriculum of police and prosecutor's offices; and ensure that all aspects of violence against women are addressed through wider legislations and directives;

(h) Establish an independent oversight and accountability mechanism modelled on the national preventive mechanisms in the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(i) Fully implement Presidential Decree No. 129, particularly to ensure that perpetrators of torture are held accountable;

(j) Ensure that Afghan national police, National Directorate of Security, other institutions holding detainees, as well as prosecutors and courts investigate allegations of torture and ill-treatment promptly and independently and punish perpetrators; and ensure that prosecutors and courts dismiss evidence obtained through the use of torture and ill-treatment;

(k) Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan to assist in providing a comprehensive response to preventing ill-treatment in detention facilities;

(l) Fully support the public release of the Afghanistan Independent Human Rights Commission's conflict-mapping report as a way of promoting peace and reconciliation;

(m) Establish a moratorium on executions and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

58. **Anti-Government elements should:**

(a) Cease firing mortars, rockets and grenades into civilian-populated areas;

(b) Cease the indiscriminate and disproportionate use of improvised explosive devices, particularly in all areas frequented by civilians, and stop using illegal pressure-plate devices;

(c) Cease the deliberate targeting and killing of civilians and withdraw orders that authorize attacks on and killings of civilians, particularly religious personnel, judicial authorities and civilian government workers;

(d) Cease all attacks from and in civilian locations, including public roads, markets, restaurants, civilian homes, consulates, civilian government offices, including courthouses;

(e) Apply a definition of "civilian(s)" that is consistent with international humanitarian law and prevent civilian casualties through compliance with international humanitarian law, including the principles of distinction, proportionality and precautions in the context of attacks;

(f) Enforce codes of conduct, instructions and directives ordering members to prevent and avoid civilian casualties and hold accountable those members who target, kill and injure civilians;

(g) Cease practices carried out by parallel judicial structures that impose unlawful punishments such as killing, amputation, mutilation and beatings.

59. **The international community should:**

(a) Consider increasing support to the Government for the implementation of programmes on the elimination of violence against women, including implementation of the recommendations the Committee on the Elimination of Discrimination against Women made in July 2013; and implement a joint monitoring framework that includes specific indicators to enable increased funding to be linked to measurable results on the elimination of violence against women;

(b) Continue to support the Afghanistan Independent Human Rights Commission and speak out against any interference, security threat or political pressure that might compromise its independence or effectiveness;

(c) Maintain support to Afghan National Security Forces to ensure they are sufficiently resourced, trained and equipped to command, control and effectively conduct operations to counter and dispose of improvised explosive devices, including exploitation, in 2015/16;

(d) Continue efforts to mark and clear (including surface and subsurface clearance) unexploded ordnance from all international military bases and firing ranges that have closed since the onset of International Security Assistance Force operations;

(e) Establish a mechanism within the North Atlantic Treaty Organization Resolute Support Mission and Afghan National Security Forces that communicates the suspected presence of unexploded ordnance from aerial and ground operations to appropriate authorities, and ensure the marking and clearance of suspect hazardous areas;

(f) Continue to conduct post-operation reviews and investigations in cooperation with the Government where civilian casualties have occurred in operations that involved international security or intelligence forces, and continue to take appropriate steps to ensure accountability and compensation, as well as better operational practice;

(g) Ensure that any assistance to Afghan institutions implicated in torture or ill-treatment produces concrete and measurable results to improve oversight and accountability, particularly in preventing, prohibiting and punishing the use of torture.